THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.16894 of 2006

14.8.2006

Between:

K.Papayya Sastry, S/o.late Suryanarayana Murthy

... Petitioner

AND

The District Collector, West Godavari District at Eluru
And others

... Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.16894 of 2006

ORDER:

The petitioner assails the notification dated 01.7.2006 under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity) issued by the first respondent proposing to acquire agricultural wetland admeasuring Acs.4.00 in R.S.No.125 situated at Peddavam Village of Tallapudi Mandal in West Godavari District belonging to the petitioner. Relief of invalidation of the impugned notification is based on three grounds. First, there is a coconut garden with two hundred (200) trees and sugarcane crop and, therefore, acquiring such land is prohibited under law. Secondly, the earlier attempt of the respondents to acquire the land under notification dated 16.9.1997 was set at naught by this Court by reason of the Mandamus in W.P.No.344 of 1988 dated 10.7.1996 and, therefore, the same land cannot be acquired. Lastly, the petitioner's case is that there are alternative lands available in the village for providing house sites and, therefore, acquiring private land is not warranted.

Learned Counsel for the petitioner put forth the same submissions as noticed herein above. The question of availability of alternative land or the question of the petitioner's land being a coconut garden are the objections, which can as well be raised before the Land Acquisition Officer (LAO) in the enquiry under Section 5A of the Act. Insofar as the earlier notification being invalidated by this Court is

concerned, a perusal of the order in W.P.No.344 of 1988 annexed to the writ petition would show that while holding that dispensing with enquiry under Section 5A of the Act is not reasonable nor proper, this Court set aside the declaration under Section 6(1) of the Act observing that the respondents can take further action depending on the outcome of the enquiry. This only shows that even from 1981, there was a need for acquiring the land for house sites and as the award could not be passed – presumably; those proceedings were initiated. There is, therefore, no merit in the submission. However, the petitioner is at liberty to file objections if not already filed before the LAO and participate in the enquiry under Section 5A of the Act. In this writ petition, no relief can be granted to the petitioner.

The writ petition, for the above reasons, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

August 14, 2006.

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